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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/816,701	04/02/2004	Michael J. Bevan	09004.004	1396

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Christopher J. Fildes
Fildes & Outland, P.C.
Suite 2
20916 Mack Avenue
Grosse Pointe Woods, MI 48236

EXAMINER

D ADAMO, STEPHEN D

ART UNIT	PAPER NUMBER
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3636

DATE MAILED: 07/12/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/816,701

Applicant(s)

BEVAN ET AL.

Examiner

Stephen D'Adamo

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 May 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) 1,3,5-7,9,11,13,15-17 and 21-24 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 2,4,8,10,12,14 and 18-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Election/Restrictions

1. Claims 1, 3 and 21-24 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected group and species, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on May 2, 2005.

Upon consideration of claims 2 and 4-20 which applicant claims are drawn to the elected species of Figures 4 and 5, claims 5-7, 9, 11, 13 and 15-17 have also been withdrawn. Specifically, the claims recite second heating elements and diffuser bags, which are not disclosed in Figures 4 and 5. Furthermore, the withdrawn claims also recite a lumbar support system, which is not disclosed in the elected species of Figures 4 and 5.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 2, 4, 8, 10, 12, 14 and 19 are rejected under 35 U.S.C. 102(b) as being anticipated by Ekman et al. (5,927,817).

Ekman discloses a ventilated vehicle seat assembly comprising a ventilation diffuser bag allowing for circulation of air through the bag. The bag consists of a side surface or top surface 28 having perforations or air holes 26 and an opposite non-perforated side or bottom surface 46. “The lower surface 46 is covered with a thin polyurethane sheet 48 for preventing escape of air flow from the porous cushion member 44” (col.3, lines 53-

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56). A heating element or pad 22 is adapted for placement on the side surface or top surface of the diffuser bag that has the perforations therein.

Regarding claim 4, the heating element further comprises a permeable surface 20 for allowing communication of the ventilation air through the heating element and the heating of the element is independent of the air movement.

In regards to claims 8, 12 and 14, the air circulated through the diffuser bag is not conditioned. The diffuser bag includes an air inlet and an air mover or fan 40 "for creating a vacuum within the air holes 26" (col.3, lines 36-37).

Regarding claim 10, the diffuser bag also comprises an air permeable fabric encapsulated within the diffuser bag. Specifically, "the bottom flow channel 42 comprises a porous cushion member 44 through which air flows" (col.3, lines 47-48).

Regarding claim 19, it is inherent that the ventilated vehicle seat assembly includes a single control module for operation of the fan and ventilation system. Whether the single control module includes a battery, a switch, the ignition switch, an motor, etc, the fan assembly would have use at least one control module.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 18 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ekman et al.

(5,927,817) in view of Law (5,411,318).

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Ekman discloses a ventilated vehicle seat assembly comprising a ventilation diffuser bag allowing for circulation of air through the bag. The bag consists of a side surface or top surface 28 having perforations or air holes 26 and an opposite non-perforated side or bottom surface 46. "The lower surface 46 is covered with a thin polyurethane sheet 48 for preventing escape of air flow from the porous cushion member 44" (col.3, lines 53-56). A heating element or pad 22 is adapted for placement on the side surface or top surface of the diffuser bag that has the perforations therein. However, Ekman fails to expressly disclose a pressure sensitive adhesive for mounting the assembly to the surface of the occupant support. Yet, Law teaches of an "extended ventilating seat covering assembly comprising a seat covering assembly. "The seat covering assemblies are held in place on the seats by any desired securing means such as mating pads or hook and loop type material as VELCRO....Preferably the loop, type material pads are secured, for example by pressure sensitive adhesive to the seats" (col.4, lines 36-42). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the ventilated seat of Ekman with a pressure sensitive adhesive and VELCRO, as taught by Law, for providing better securement of the heating pad to the seats.

Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ekman et al.

(5,927,817) in view of Ligeras (5,516,189).

Ekman discloses a ventilated vehicle seat assembly comprising a ventilation diffuser bag allowing for circulation of air through the bag. The bag consists of a side surface or top surface 28 having perforations or air holes 26 and an opposite non-perforated side or bottom surface 46. "The lower surface 46 is covered with a thin polyurethane sheet 48

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for preventing escape of air flow from the porous cushion member 44" (col.3, lines 53-56). A heating element or pad 22 is adapted for placement on the side surface or top surface of the diffuser bag that has the perforations therein. However, Ekman fails to expressly disclose separate controllers for each component of the assembly. Yet, Ligeras teaches of a portable heated seat having separate control switches 46 and 48 for the upper and lower part of the seat. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the ventilated seat of Ekman with separate thermostats, as taught by Ligeras, "to enable further control of heating during usage" (col.3, lines 16-17).

Conclusion

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Haupt et al. (6,786,541), Ekern et al. (6,629,724), Gendron (6,511,125), Rhodes, Jr. et al. (6,273,810), Lord (5,715,695), Chih-Hung (5,692,952), Buie et al. (5,613,730), Spitalnick (4,997,230), Geldmacher (4,335,725), Sterrett (3,638,255), Deso (FR 2694527), Hoglinger et al. (EP 280213) and Liviken et al. (WO 9409684) all show various features of the claimed invention.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen D'Adamo whose telephone number is 571-272-6857. The examiner can normally be reached on Monday-Friday 6:00-2:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Pete Cuomo can be reached on 571-272-6856. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.


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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

SD

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July 8, 2005


Peter M. Cuomo
Supervisory Patent Examiner
Technology Center 3600